

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHICAGO INSURANCE COMPANY,

Plaintiff,

v.

ROBERT L. WIGGINS, WIGGINS &  
ASSOCIATES, CHARLES J. TAUNT,  
Chapter 7 Trustee for American Title  
of Michigan,

Defendant

and

COMMONWEALTH LAND TITLE  
INSURANCE COMPANY,

Intervening Defendant.

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CIVIL ACTION NO. 02 CV 73801 DT

DISTRICT JUDGE PATRICK J. DUGGAN

MAGISTRATE JUDGE VIRGINIA MORGAN

**ORDER DENYING DEFENDANT'S MOTION TO STRIKE WITNESS**

The matter is before the court on the motion of Intervening Defendant Commonwealth's Motion to Strike Thomas A. Johnson as a witness. Oral argument was held before the magistrate judge on June 22, 2005. For the reasons stated on the record, the motion is DENIED WITHOUT PREJUDICE.

The motion seeks to disqualify Mr. Johnson as a witness at trial based on his lack of personal knowledge or involvement with respect to the matters at issue in the case. Although the court finds that, based on the record before it, Mr. Johnson did not have personal knowledge of files in Michigan or involvement with the individual file of Mr. Wiggins and therefore, it is unlikely that he would be able to offer a sufficient foundation to admit his testimony at trial, the

court believes that the motion is actually a motion in limine as it seeks to exclude testimony at trial. As such the motion is premature and it would be unwise for this court to rule on evidentiary matters likely to be heard before another judge. It may be that Mr. Johnson's lack of personal involvement and knowledge may go only to the weight to be given his testimony or that his testimony may be cumulative, or so unhelpful and/or irrelevant that it would be inadmissible under the Federal Rules of Evidence. However, those are determinations not appropriately made at this time. The denial of the instant motion is without prejudice to Commonwealth's right to renew the motion or raise the evidentiary issue in another form before the trial judge at an appropriate time.

SO ORDERED.

s/Virginia M. Morgan  
VIRGINIA M. MORGAN  
UNITED STATES MAGISTRATE JUDGE

Dated: July 1, 2005

**Proof of Service**

The undersigned certifies that a copy of the foregoing report and recommendation was served on the attorneys of record herein by electronic means or U.S. Mail on July 1, 2005.

s/Jennifer Hernandez  
Case Manager to  
Magistrate Judge Morgan